THE

MYSORE GAZETTE.

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PART III.

Acts & Regulations passed by His Highness the Maharaja of Mysore.

REGULATION I OF 1884.

THE MYSORE CHIEF COURT REGULATION, 1884.

WHEREAS it is expedient to amend the constitution of the Chief Court of Mysore, His Highness the Maharaja of Mysore is pleased to enact as follows :—

Section 1.—This Regulation may be called "The Mysore Chief Court Regulation, 1884."

Short title.

It shall extend to the whole of the Territories of Mysore and it shall come into force on the twenty-eighth day of May 1884. But nothing herein contained shall affect any jurisdiction vested in the British Government.

Extent.

Section 2.—On and from that day, the Rules published with Government of India, Foreign Department Notifications No. 236 I. J, dated 27th August 1879 and Nos. 281 I J, and 282 I J, dated 10th October 1879, shall be repealed.

Repeal.

Section 3.—In this Regulation, unless a contrary intention appears from the context, "Chief Court" means the Chief Court of Mysore as constituted under this Regulation, and "Chief Judge" means the Chief Judge of the said Chief Court appointed under this Regulation; and reference to the "Chief Court" or to the "High Court" in any Regulation, Act, or other law for the time being in force, shall be deemed to have been made to the Chief Court as constituted under this Regulation.

Interpretation Clause.

"Full Bench" means a Bench consisting of all the Judges of the Chief Court.

Constitution of the Chief Court.

Section 4.—The Chief Court of Mysore shall consist of three or more Judges who shall be appointed by His Highness the Maharaja of Mysore, and shall hold their offices during His Highness' pleasure.

One of the Judges of the Chief Court shall be appointed to be the Chief Judge of that Court by His Highness the Maharaja, provided that the officer holding the appointment of the Chief Judge at the time of this Regulation coming into operation shall become the Chief Judge of the Chief Court of Mysore as constituted under this Regulation without further appointment.

Precedence of Judges.

Section 5.—The Chief Judge shall have rank and precedence before the other Judges of the Chief Court, who as between themselves shall have rank and precedence according to the seniority of their appointments as such Judges.

Seal of the Chief Court.

Section 6.—The Chief Court shall have and use, as occasion may require, a seal bearing a device and impression of the Royal Arms of His Highness the Maharaja of Mysore with the inscription "The Chief Court of Mysore" in English and Canarese. The said seal shall ordinarily be kept in the custody of the Chief Judge.

All decrees, orders, summonses and other processes issued by the Chief Court shall be sealed with the said seal and shall be signed by a Judge or the Registrar of the Chief Court.

Appointment of ministerial officers.

Section 7.—(1). The Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Government of Mysore, appoint a Registrar and a Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise of the powers and discharge of the duties conferred and imposed on the said Court by this Regulation.

(2). The appointment of the Registrar and Deputy Registrar shall be subject to the sanction of the Government of Mysore.

(3). The Registrar and other ministerial officers of the Chief Court holding appointments on the date of this Regulation coming into force shall be deemed to have been appointed hereunder.

Duties of ministerial officers.

Section 8.—The officers appointed under the last preceding Section shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may, from time to time, direct.

Suspension and dismissal of ministerial officers.

Section 9.—Any such officer may be suspended or dismissed from his office by order of the Chief Court, provided that the Registrar and Deputy Registrar shall not be dismissed without the previous sanction of the Government of Mysore.

Chief Court to be High Court having control over all other Courts.

Section 10.—The Chief Court shall be deemed, for the purpose of all enactments for the time being in force, to be the highest Court of civil and criminal appeal, reference and revision in the Territories of Mysore, and all the Courts, civil and criminal, in the said Territories, shall be subject to its superintendence and control.

Section 11.—Where, in any suit or proceeding, it is necessary for the Chief Court to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,

Law in cases of succession, &c.

(*a*) the Muhammadan Law where the parties are Muhammadans, and the Hindu Law where the parties are Hindus, or—

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(*c*) In cases where no specific rule exists, the Chief Court shall act according to justice, equity and good conscience.

Section 12.—The Chief Court shall have and exercise the ordinary original civil jurisdiction of a District Court in all suits and proceedings of a civil nature arising within such local limits as the Government of Mysore may, from time to time, by notification in the official Gazette, declare and appoint. The local limits so declared and appointed shall be deemed to be a District within the meaning of the Code of Civil Procedure. For the purpose of exercising the original civil jurisdiction vested in the Chief Court by this Section, the Chief Court shall depute one of the Judges of such Court, who shall, for the purpose aforesaid, conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the District Court of the aforesaid District under "The Mysore Civil Courts Regulation, 1883."

Ordinary original civil jurisdiction of Chief Court.

Section 13.—The Chief Court shall have and exercise the ordinary original criminal jurisdiction of a Court of Session, within such local limits as the Government of Mysore may, from time to time, by notification in the official Gazette, declare and appoint. The local limits so declared and appointed shall be deemed to be a Sessions Division within the meaning of the Criminal Procedure Code. For the purpose of exercising the original criminal jurisdiction vested in the Chief Court by this Section, the Chief Court shall depute one of the Judges of such Court, who shall, for the purpose aforesaid, conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the Court of Session for the aforesaid Sessions Division under the Code of Criminal Procedure.

Ordinary original criminal jurisdiction of Chief Court.

Section 14.—Appeals from judgments, orders, decrees, or sentences passed by any subordinate Court, civil or criminal, within the local limits referred to in Sections 12 and 13, shall, when allowed by law to a District Court or Court of Session, lie to the Chief Court.

Appeals from judgments of subordinate Courts within the limits of the ordinary original jurisdiction of the Chief Court.

All other powers ordinarily exercisable by a District Court and Court of Session shall, within the local limits aforesaid, be exercised by the Chief Court.

Section 15.—(1). Appeals against, references regarding, and applications for revision of, judgments, decrees, orders, or sentences passed by a Judge of the Chief Court, in the exercise of the original civil and criminal jurisdiction vested in it, shall, when allowed by law, be heard by the Full Bench of the Chief Court.

Appeals from the decisions of the Chief Court in the exercise of original jurisdiction.

(2). Every other appeal, civil and criminal, which lies to the Chief Court under any law for the time being in force, as well as every case referred to the Chief Court for confirmation of a sentence of death, shall be heard by a Bench consisting of not less than two Judges of the said Court.

Other appeals to the Chief Court.

(3). Any Judge of the Chief Court may refer to a Full Bench of the said Court any question of law or usage having the force of law, the construction of any document or admissibility of any evidence in any suit or other proceeding pending before him or it, on which there is no further appeal under the law for the time being in force.

Reference to Full Bench.

(4). The decision of the majority of Judges composing any Full Bench of the Chief Court shall be the decision of the Chief Court. When a Bench of the Chief Court consists of only two Judges and there is a difference of opinion between such Judges on any material question pending before it, such question shall be referred to a Full Bench and the decision of the majority of Judges on such Full Bench shall be the decision of the Chief Court.

Decision of the majority to prevail.

Section 16.—The Chief Court may, whenever it deems fit, transfer any case pending before it, whether of a civil or criminal nature, and whether original or appellate, to any Court of competent jurisdiction, whether situated within or beyond the local limits referred to in Sections 12 and 13 of this Regulation.

Chief Court may transfer cases.

Section 17.—The Chief Court shall hold its sittings at such place as the Government of Mysore may, from time to time, appoint in that behalf.

Place of sittings of Chief Court.

Whenever it appears to the Government of Mysore convenient that the jurisdiction and powers vested in the Chief Court by this Regulation, or any other law for the time being in force, should be exercised in any place other than the place appointed under para 1 of this Section, or at several of such other places by way of circuit, the Government of Mysore may by order authorize and direct any one or more of the Judges of such Court to hold sittings in such place or places as by such order may be directed, and the Judge or Judges acting under such order shall have and exercise the same jurisdiction and authority as would be had and exercised by a Judge or Judges of the Chief Court, as the case may be, in its ordinary place of sitting.

Section 18.—The Government of Mysore may, whenever it deems fit to do so, confer upon a Chief Judge all or any of the powers hereunder in this Section specified, and may, from time to time, cancel any such order.

Powers which may be conferred upon Chief Judge.

The Chief Judge empowered under this Section shall exercise all the powers conferred upon him under this Section, and the exercise of such powers by him shall be deemed to be the exercise of the same by the Chief Court under this Regulation.

The powers referred to in this Section are :—

1*stly*. The appointment of ministerial officers under para 1 of Section 7.

2*ndly*. The direction as to the powers and duties of ministerial officers under Section 8.

3*rdly*. The distribution of the work of the Chief Court between himself and the other Judges of the said Court.

Section 19.—Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide, in such manner as it thinks fit, for the exercise, by one or more of its Judges, of any powers conferred on it by this Regulation or by any other enactment for the time being in force.

Rules for the exercise by one or more Judges of powers vested in Chief Court.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Section 20.—The Chief Court may, from time to time—

Power of Chief Court to make rules.

(*a*) make rules consistent with this Regulation conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which the powers and duties so conferred and imposed shall be exercised and performed ;

(*b*) make rules consistent with this Regulation to determine in what cases Pleaders practising in such Courts shall be permitted to address such Courts in English ;

(*c*) prescribe forms for such books, entries, statistics, and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority ;

(*d*) make rules consistent with this Regulation, providing for the inspection of such Courts and supervision of the working thereof;

(*e*) make such rules consistent with this Regulation, institute such enquiries and submit such recommendations to the Government of Mysore, as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Section 21.—All rules made and forms prescribed under Sections 19 and 20 shall be submitted for sanction to the Government of Mysore, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon have the force of law.

Rules and forms under Sections 19 and 20 to be submitted for sanction to the Government of Mysore.

Section 22.—The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Government of Mysore such copies of, or extracts from, the said registers, books and accounts, as well as such statements of the work done in the Chief Court and in the Courts subordinate thereto, as may, from time to time, be required by the Government of Mysore.

The Chief Court to keep Registers, &c.

Section 23.—All cases, appeals and applications, civil or criminal, which shall be pending before the Court of the District and Sessions Judge of the Nundydroog Division on the 28th day of May 1884, except such civil cases and applications as are within the jurisdiction of a Court of a Subordinate Judge, shall be heard and decided by the Chief Court under this Regulation.

Pending cases, appeals and applications.

BANGALORE,
21*st May* 1884.

K. SHESHADRI IYER,
Dewan.

44

REGULATION II OF 1884.

A Regulation introducing into the Territories of Mysore the Code of Civil Procedure, Act XIV of 1882, *in supersession of Act X of* 1877 *as amended by Act XII of* 1879.

WHEREAS it is expedient to apply to the Territories of Mysore, Act XIV of 1882 of the Governor General of India in Council, His Highness the Maharaja of Mysore is pleased to enact that the aforementioned Act XIV of 1882 shall have the force of law in the Territories of Mysore, with the modifications and omissions hereunder mentioned, namely—

1. For "British India," read "the Territories of Mysore" except in Section 229.

2. For "Local Government" read "Government of Mysore."

3. For "a High Court," "the High Court," "the same High Court," "High Courts," or "such High Court," read "the Chief Court."

4. For "Collector," or "Collector of land revenue," read "Deputy Commissioner."

5. In Sections 1, 3 and 99 *A*, for "June 1882," read "July 1884."

6. For Paragraph 2 of Section 1, substitute the following :—

"It extends to the whole of the Territories of Mysore."

7. In Section 2, for the words "and includes an Advocate, a Vakil and an Attorney "of a High Court," substitute "enrolled under the law for the time being in force in the "Territories of Mysore relating to Legal Practitioners;" and in the same Section omit—

"and includes the local limits of the ordinary original civil jurisdiction of a High "Court;"

"and not having authority in British India nor established by the Governor General "in Council;"

".every covenanted servant of Her Majesty;"

"every commissioned officer in the Military or Naval forces of Her Majesty while "serving under Government;"

and "And in any part of British India in which this Code operates, 'Government' "includes the Government of India as well as the Local Government."

8. In Section 3 for "the twenty-ninth day of July 1879," read "the nineteenth day "of November 1879."

9. Omit Section 4.

10. In Section 5, omit "(other than the Courts of Small Causes in the Towns of Calcutta, Madras and Bombay.)"

11. In Section 6, omit "affects the jurisdiction or procedure—

"(*a*). of Military Courts of Request;

"(*b*). of a single officer duly appointed in the Presidency of Bombay to try small "suits in Military Bazaars at Cantonments and Stations occupied by the Troops "of that Presidency ; or

"(*c*). of Village Munsiffs or Village Panchayats under the provisions of the Madras "Code ;

"(*d*). of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Moul- "main, Akyab or Bassein, or."

12. Omit Sections 7 and 8.

13. In Section 9 omit "The ninth part: Special Rules relating to the Chartered "High Courts".

14. In Section 12, omit "or in any Court beyond the limits of British India, esta- "blished by the Governor General in Council and having like jurisdiction, or before Her "Majesty in Council".

15. Omit Section 24.

16. Omit the second Paragraph of Section 25.

17. Omit the last Paragraph of Section 37.

18. Omit the last Paragraph of Section 39.

19. Omit Section 86.

20. Omit Section 90.

21. In Section 95, omit "with the previous sanction of the Governor General in "Council."

22. In Section 223, omit Paragraph 5.

23. For Section 229, substitute the following :—

"A decree of any Court in British India, which cannot be executed within the juris- "diction of the Court by which it was made, may be executed in manner herein provided "within the jurisdiction of any Court in the Territories of Mysore."

24. To the first Paragraph of Section 273, the following shall be added :—"The "Court may for that purpose direct the execution of the decree so attached."

25. In Section 287, omit "as regards his own Court and the Court of Small Causes "at Rangoon, the Recorder of Rangoon shall be deemed to be 'a High Court' within the "meaning of this Paragraph."

26. In Section 320, omit "with the sanction of the Governor General in Council."

27. In Section 327, omit "with the sanction of the Governor General in Council."

28. In Section 339, for the words "proper officer of the Court," substitute "officer "in charge of the Civil Jail."

29. In the proviso to Section 341, omit the word "third."

30. Omit the last Paragraph of Section 360.

31. In Section 386, omit "or the Court of the Recorder of Rangoon."

32. In Section 391, omit "and established by the authority of Her Majesty or of "the Governor General in Council, or

"(*b*) Courts situate in any part of the British Empire other than British India or

"(*c*) Courts of any foreign country for the time being in alliance with Her Majesty."

33. For Section 416, substitute the following Section :—

"Suits by the Government shall be instituted by the Government of Mysore."

34. For Section 418, substitute the following Section :—" In suits by the Govern- "ment of Mysore, instead of inserting in the plaint the name and description and place of "abode of the plaintiff, it shall be sufficient to insert the words the Government of "Mysore."

35. Omit Sections 419, 420 and 421.

36. In Section 424, omit "against the said Secretary of State in Council or," and "in the case of the Secretary of State in Council, delivered to, or left at the Office of, a Se- "cretary to the Local Government or the Collector of the District, and in the case of a "public officer."

37. In Section 429, omit "against the said Secretary of State in Council or."

38. Omit Chapter XXVIII.

39. In Section 443, for the words " Indian Majority Act 1875, Section 3," substitute the following—

" Rules for the care of the person and property of minors, published with the "Government of India Notification No. 75 J, dated 25th April 1872."

40. In Section 463, for the words and figures "Act No. XXXV of 1858," substitute "the Rules relating to persons of unsound mind, published with the late Chief Com- missioner's Notification No. 141, dated 31st July 1874."

41. In Section 464, omit " by the Court of Wards or " and "local"

42. In Section 538, omit the following :—

"(*a*) The High Courts of Judicature at Fort William, Madras and Bombay.

"(*b*) The Court of the Recorder of Rangoon.

"(*c*) The Courts of Small Causes in Calcutta, Madras and Bombay.

"(*d*) The Court of the Judge of Karachi, and ".

In the same Section for "(*e*) any other Court," substitute " any Court."

43. In Section 539, Paragraph 1, for " Advocate General acting Ex-Officio " substitute " Deputy Commissioner or such other officer as the Government of Mysore " may appoint in this behalf, " and for " Advocate General ", substitute " Deputy Com- " missioner or other officer appointed as last aforesaid, " and omit the words " the High Court or. " Omit also Paragraphs 2 and 3.

44. In Section 547, for the words " the Secretary of State for India in Council " substitute " the Government of Mysore,"

450

45. To Section 584 add the following :—

(*d*) An erroneous finding upon a material question of fact producing an error in the decision on the merits in those cases in which, upon any such question of fact, the finding of the appellate court differs from that of the court of the first instance.

46. In Section 586, for "five hundred rupees" substitute "fifty rupees."

47. Omit Chapter XLV.

48. Omit Chapter XLVIII.

49. In Section 644, omit the words and figures "subject to the power conferred on the High Court by Section 639 and by the twenty-fourth and twenty-fifth of Victoria Chapter 104, Section 15."

50. Omit Sections 645 *A* and 646.

51. In Section 650 *A*, omit "Provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by Notification in the *Gazette of India*, declared the provisions of this Section to apply to such Courts," and also omit Paragraph 2.

52. The Notifications of the Government of India, Foreign Department, No. 47 J., dated 27th May 1878, in so far as it extends to the Territories of Mysore Act X of 1877, (The Code of Civil Procedure), and No. 320 I. J., dated 19th November 1879, in so far as it extends to the Territories of Mysore Sections 1 to 103, Act XII of 1879 (An Act to amend the Code of Civil Procedure), are hereby cancelled from the 1st day of July 1884.

BANGALORE,
2nd June 1884.

K. SHESHADRI IYER,
Dewan of Mysore.